



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

SEP 04 2003

Jennifer Lewis Smith, Treasurer
Van Hollen for Congress
3514 Farrugut Ave.
Kensington, MD 20895

RE: MUR 5328

Dear Ms. Smith:

On August 25, 2003, the Federal Election Commission found that there is reason to believe that Van Hollen for Congress and you, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing pre-probable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such

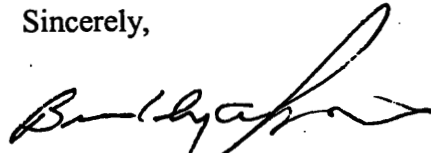
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counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Joshua Heller or Thomas Andersen, the attorneys assigned to this matter, at (202) 694-1650.

Sincerely,



Bradley A. Smith
Vice Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

cc: The Honorable Christopher Van Hollen
United States Representative
1419 Longworth H.O.B.
Washington, D.C. 20515

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENTS: Van Hollen for Congress

MUR 5328

6 and Jennifer Lewis Smith, as treasurer

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8 This matter was generated based on information ascertained by the Federal Election
9 Commission in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C.
10 § 437g(a)(2).

11 Pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act"), an
12 authorized candidate committee may accept \$5,000 from a multicandidate PAC during each
13 election. 2 U.S.C. §§ 441a(a)(2)(A), 441a(f). If a committee accepts contributions that exceed
14 these limits, its treasurer shall either refund the excessive contributions or seek redesignation or
15 reattribution within sixty days. *See* 11 C.F.R. § 103.3(b)(3).

16 The Act states that for purposes of the limitations set forth in 2 U.S.C. §§ 441a(a)(1) and
17 441a(a)(2), all contributions made by political committees "established or financed or maintained
18 or controlled by any . . . person . . . or by any group of . . . persons, shall be considered to have
19 been made by a single political committee."¹ 2 U.S.C. § 441a(a)(5). Committees established,
20 financed, maintained or controlled by the same person or group of persons are "affiliated
21 committees." 11 C.F.R. § 100.5(g). Contributions made to or by such committees shall be
22 considered to have been made to or by a single committee. *See* 11 C.F.R. §§ 100.5(g) and
23 110.3(a)(1).

24 PAC to the Future is an unauthorized multicandidate committee that has been registered
25 with the Commission since March 24, 1999 and qualified for multicandidate committee status on

¹ Section 441a(a)(5) provides specific exceptions, none of which is relevant here.

1 September 28, 1999. PAC to the Future's Statement of Organization lists former California
2 Lieutenant Governor Leo McCarthy as its treasurer and states that it is not affiliated with any
3 other committee. Team Majority is an unauthorized multicandidate committee that initially
4 registered with the Commission under the name "Team Pelosi" on April 1, 2002. The committee
5 amended its name to "Team Majority" on July 24, 2002, in response to a letter from the
6 Commission reminding the committee that an unauthorized committee's name may not include
7 the name of a candidate. See 2 U.S.C. § 432(e)(4). Team Majority's Statement of Organization
8 also lists Leo McCarthy as its treasurer and states that it is not affiliated with any other
9 committee.

10 A review of PAC to the Future's and Team Majority's disclosure reports reveals that the
11 two PACs received contributions from many of the same contributors and made contributions to
12 many of the same committees. PAC to the Future and Team Majority share a common treasurer
13 who reportedly admitted to the press that the primary reason for forming Team Majority was to
14 "give twice as much [*sic*] hard dollars."² The Commission is not aware of any public statements
15 by the treasurer or Team Majority contesting or disavowing this press statement.

16 Following press reports questioning whether the two PACs were affiliated, *see supra*
17 note 2, Team Majority (based on information in its disclosure reports) appears to have stopped
18 making or accepting contributions. Team Majority also received refunds from some candidate
19 committees to which it made contributions that, when aggregated with those of PAC to the
20 Future, exceeded the Act's limits for a single committee. In addition, Team Majority refunded
21 contributions to individuals who contributed in excess of \$5,000, when aggregated, to the two

² See Ethan Wallison, *Pelosi PAC Stirs Questions*, ROLL CALL (Oct. 24, 2002) available at <http://www.rollcall.com/pages/news/00/2002/10/news1024b.html>.

1 PACs. Accordingly, it appears that PAC to the Future and Team Majority are affiliated with one
2 another and, as a result, all contributions made by these committees should be considered to have
3 been made by a single committee.

4 PAC to the Future made a \$5,000 contribution to Van Hollen for Congress on September
5 16, 2002, and Team Majority made a \$5,000 contribution to Van Hollen for Congress on October
6 15, 2002. Because the two PACs were limited to making a \$5,000 contribution to any candidate
7 committee, the contributions made by PAC to the Future and Team Majority, when aggregated,
8 constituted excessive contributions to Van Hollen for Congress. Disclosure reports filed with the
9 Commission do not show that these excessive contributions were refunded, redesignated or
10 reattributed within sixty days. *See* 11 C.F.R. § 103.3(b)(3).

11 Therefore, there is reason to believe that Van Hollen for Congress and Jennifer Lewis
12 Smith, as treasurer, violated 2 U.S.C. § 441a(f).